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# Révolutionniser la propriété

La confiscation des biens des émigrés à Paris et le problème de la propriété dans la Révolution française

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La confiscation des biens des émigrés à Paris et le problème de la propriété dans la Révolution française

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## REFERENCES

Hannah Calaway, *Révolutionniser la propriété : la confiscation des biens des émigrés à Paris et le problème de la propriété dans la Révolution française*, sous la direction de Pierre Serna et Patrice Higonnet (cotutelle Université Paris 1 - Harvard University), 2015.

- 1 To say that the Revolution was first and foremost a revolution in property is a familiar bromide. Whether one views liberal democracy or totalitarianism as the major legacy of the period, the establishment of property rights in 1789-91, their violation during the Terror, and their rehabilitation under the Directory form a crucial strand of the narrative. And yet, the more closely one traces the fate of property, the more difficult it becomes to make out any narrative at all. For example, the Constituent Assembly declared all property sacrosanct, but went on to base citizenship rights on land alone, excluding other forms of property. Church property was abolished on the grounds that property was an individual right, but the state continued to be a major landowner and even enjoyed special privileges, such as exemption from prescription. In its most glaring inconsistency, the Constituent Assembly declared all men equal in rights, but declined to abolish slavery, identifying slaves as “commercial property.” In short, lawmakers spent a great deal of time talking about property, but what exactly they meant when they did so is far from clear. One might ask, as Adrien Duport did on the floor of the legislature during a particularly frustrating debate about Church lands, “What is property?”
- 2 The claim that property was at the center of the Revolution depends on the assumption that property itself is self evident. This is not the case. Property as a legal and political right was unstable in the Revolution. The ideals of liberty and individualism that inspired property reform in 1789-91 were themselves conflicted and, as such, open ended—there were multiple different ways that they could be put in practice. Property as an object was

fluid, as economic change pushed the boundaries of what could be owned, and as existing legal traditions of inheritance stretched the boundaries of ownership well outside the individual. This situation led to contradiction and uncertainty. “Property” was forged over the course of the Revolution through the confrontation of emerging liberal and republican politics, Old Regime legal traditions, and evolving economic and administrative practices.

- 3 This dissertation studies how property was assembled by breaking the idea apart. Property lies at the intersection of ideas and practices. Over the course of the Revolution, concepts as diverse as citizenship, lineage, and commerce took shape through property: in requirements for voting, in inheritance, and in interest-bearing instruments. Concerns about the smooth functioning of these concepts in practice guided the ways lawmakers articulated them legally. Lawmakers were not the only actors influencing property reform. Administrators, owners, family members, and a host of borrowers, lenders, tenants, and others also took part in shaping the boundaries of property. Changes to lending regulations, inheritance laws, and administrative methods influenced their choices. Property took shape in the interplay of law and politics with administration, social practices, and economic forms. To break property apart, then, requires attention to the ways actors at various levels of state and society articulated property conceptually and translated it into practice.
- 4 The confiscation of émigré assets provides a fulcrum for a broader study of property. As measures against the émigrés were conceived and put into action, ideas and practices of property converged, offering a useful point of access for the historian. Émigré property seizure unfolded throughout the whole Revolution, its scope extending well beyond the names on the émigré list. A core piece of the revolutionary project, émigré seizures offered the means to achieve political and social change on a large scale—an opportunity that lawmakers took up in some instances and consciously avoided in others. The laws against the émigrés are associated with the Terror, and yet the first laws limiting emigration appeared in 1790, and confiscations began before the fall of the monarchy. The confiscation process spanned nearly the entire Revolution, engaged all levels of government, and touched thousands of people, émigré or not. The administrators handling confiscation worked to maintain the chain of title on properties by gathering documentation of ownership, so that even the records of confiscation extend well beyond the bounds of individual émigré fortunes.
- 5 While the dissertation focuses on the émigrés narrowly, its purpose is to address property broadly. The relationships revealed in the sources of émigré confiscation offer a view into property relations that, ultimately, is only incidentally related to the émigrés themselves. They are filtered through the émigrés, but they are not unique to them. Practices reflect the assumptions, beliefs, and values of the individuals who engaged them, which are themselves knitted into the society and culture of which the actor is part. Shared attitudes and beliefs can be derived from the behaviors of any of the members of a society. Further, the places where property claims are contested, or where practices move outside what is accepted, offer the historian particularly valuable insight into the boundaries of what was deemed acceptable. From this perspective, the representativeness of any given source is not a particularly relevant issue. One could find justification for this approach in the microhistory of the 1990s, but it also corresponds to current trends in economic and institutional sociology, as well as legal history.

- 6 The structure of the dissertation reflects its aims, capturing the forces that forged revolutionary property by means of a methodological experiment in non-linear, interdisciplinary history. We study property along five strands, associated with five sets of actors. The members of the revolutionary legislatures appear first in the role of lawmaker and second of politician. Next, we examine the administrators who interpreted law as they put it into practice; the émigré owners and their families; and the émigrés situated within the webs of economic relations created through their property. This final group includes family members who did not emigrate, employees and tenants who depended on émigrés, and others who entered into contracts of various types with émigrés or their agents. Each set of actors invites a different methodological orientation, considering property from the perspective of law, politics, administration, anthropology, and economic history. These five approaches provide the architecture of the dissertation, which is organized in five chapters. By interweaving multiple ways of thinking about property, we consider how its different valences conflicted and coordinated.
- 7 The sources for this project pose a methodological dilemma. Our particular focus is property seizure in the city of Paris. The density of seizures, diversity of forms of property taken, and direct relationship between local and national administrations make the capital well suited to this study. For other reasons, however, it is a problematic choice. A comprehensive, quantitative analysis of confiscation or a reconstitution of émigré patrimonies is impossible, because the sources were almost entirely destroyed when the archives of both the City of Paris and the Ministry of Finance burned in 1871. Information about émigré property must be pieced together from the fragmentary registers and correspondance of the Paris Domains bureau. At the national level, the operations of the Ministry of Finances must be gleaned indirectly from the correspondance of the Ministry of the Interior and the Ministry of Police, which shared the task of identifying and tracking the émigrés.
- 8 The obstacles to studying property seizure point to the richness in doing so, and are not limited to Paris. Émigré property was tracked according to its location, not the residence of the owner, so that the records of a single patrimony are scattered across France. The division of émigré estates among heirs, however, was undertaken in the last place of residence of the émigré, regardless of the location of any property. Lawmakers set up two opposing systems for dealing with property, one based on the location of the object, the other on the location of the owner. The duality that underlies these approaches, of property as an object versus property as a legal relationship among people, points to the very heart of the issue. Property is multiple things at once, but the expectations that were loaded onto it continually interfered with each other.
- 9 Revolutionary law was predicated on a break with the past, and yet lawmakers—many of them lawyers—were strongly influenced by French legal tradition. Inspired by republican thought, lawmakers conceived of property as an individual right in the context of citizenship. The legal tradition that undergirded property, however, conceived of it in the opposite way, as a tool for social cohesion and interdependence. Exemplary of this is the distinguishing characteristic of feudal property, the ability to distribute layers of ownership of a single property among individuals of different castes. Lawmakers sought to destroy feudalism, but by no means repudiated customary law as a whole. Concern for social cohesion motivated a number of elements of revolutionary property reform, including limits placed on authorial rights and the creation of public land registries at the expense of the time-honored principle of family secrecy. Legally, property continued to

be defined by family relations, even as the right to property became the hallmark of individual citizenship. The political role attributed to property contradicted its legal character.

- 10 Émigré policy reflected the dual concerns of individual rights and social interdependence. The decision to seize property from the émigrés was based on the assumption that traditional and revolutionary conceptualizations of property were harmonious. Individual émigrés lost their property on the grounds that they had acted against the interest of the polity as a whole, their property rights taken by the community as an indemnity. But property as an individual right was a political fiction. In practice, property anchored networks of interdependent claims. This became apparent in the Directory, as legislators debated what to do about the enormous debt held by the creditors of émigrés. Reimbursing the debt would make confiscation a net financial loss for the state, but repudiating it would anger the hundreds of thousands of people who held émigré debt.
- 11 Identifying émigrés and confiscating their property demanded a complex administrative process, which itself influenced the way property was conceptualized. Hundreds of laws governing émigré administration were passed from 1791 through the Consulate, and the administrations responsible for putting the laws into action were reorganized repeatedly. The men at the Régie de l'Enregistrement, des Domaines et du Timbre who created coherent practices out of the thicket of legislation were largely Old Regime veterans committed to applying the letter of the law. Even as administrators cleaved owners from their possessions using tools such as inventories and court orders, numerous threads persistently drew the two back together. Legal records of ownership created by the state could not entirely overcome the ownership performed by émigré owners, even though they were absent. Administrators' own records tracked the provenance of valuable art, furniture, and real estate, and the cachet of the former owner's name added value. Without a name, goods deteriorated in warehouses, unsold and unowned. Damage and spoilage posed a serious threat to value. In the case of real estate, a web of relationships pulled seized property back towards its owner: family members left behind in a house; tenants who continued to pay rent to an émigré's agent.
- 12 Lawmakers recognized that property served the claims of many people at the same time and took advantage of this possibility. The ability to layer claims allowed families to stretch a single asset to serve the needs of multiple members, or for one investor to divide a single asset into pieces and borrow against them separately. These practices made it more difficult to separate an individual émigré from his assets, but corresponded to Revolutionary reforms that conceptualized the family as an egalitarian, consensual unit. Equal inheritance, instituted in stages through 1791-2, favored greater division of estates or, from another point of view, encouraged families to share assets that would previously have passed to a single heir. Émigré policy favored an approach to lineage that ran contrary to the rigorous individualism of citizenship. For example, property belonging to an émigré's parents was sequestered as part of their children's future inheritance, so that lineage took precedence over individual assets.
- 13 The tension between the rights-bearing individual and the family as the base unit of society was grounded in the very nature of property rights. So was the inherent instability of a system that granted political rights to property owners, in a context where a landed estate, based on paper wealth, could vanish overnight. The citizen could not be separated either from feudally-toned notions of lineage or from unstable networks of

debt, because property bound them all together. The political value of property could not be sequestered from its other strands, and such a separation was not the intention of lawmakers. Further, property ownership was not a binary state. Owning and not owning fell on a continuum, with a wide middle range available to individuals leveraging assets to which they had only a partial claim.

- 14 When property becomes the question rather than the explanation, the Revolution looks quite different. It represents a significant moment in the formation of democratic institutions, which took shape in historically contingent ways. The idea that property was constructed over the course of the Revolution challenges us to think differently about the democratic institutions of which property was a foundational element. The sources of political conflict in the postrevolutionary eras should be sought within the institutions of property that endured well after the First Republic, and not only in the conflict among political ideologies. The implications of this approach extend beyond the scope of the Revolution. Property, as it was created in the revolutionary era, bears the marks of its historical and cultural context. Acknowledging this contingency provides the starting point for a more complex account of how property rights were exported to the rest of the world even as they became a central point of conflict in Europe and America. This approach includes a closer examination of the assumptions that traveled with property rights across imperial spaces.